

Message Text

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SUBJECT: REPORT TO SENATE FOREIGN RELATIONS, COMMITTEE ON
AMCIT PRISONERS IN MEXICO

REF: (A) STATE 103491, (B) MEXICO 1159

SUMMARY AND ANALYSIS

THERE HAVE BEEN SIGNIFICANT IMPROVEMENTS IN SEVERAL ASPECTS AFFECTING AMERICAN PRISONERS IN MEXICO DURING THE PERIOD JANUARY 15-MAY 15, 1977. THESE IMPROVEMENTS ARISE FROM THE GREATER RESPONSIVENESS OF THE GOM UNDER PRESIDENT LOPEZ PORTILLO ON THIS ISSUE, AND PARTICULARLY FROM THE ENERGETIC MANNER IN WHICH ATTORNEY GENERAL OSCAR FLORES SANCHEZ HAS TACKLED THOSE ASPECTS OF THE PROBLEM WHICH LIE WITHIN HIS JURISDICTION. NOTIFICATION AND ACCESS HAS NOTICEABLY IMPROVED IN MOST PARTS OF MEXICO, ESPECIALLY WITHIN THE EMBASSY'S CONSULAR DISTRICT, WHERE PROMPT NOTIFICATION WAS FORMERLY THE EXCEPTION RATHER THAN THE RULE. THOSE AREAS IN WHICH NOTIFICATION CONTINUES TO BE A PROBLEM ARE BROUGHT TO THE ATTENTION OF THE ATTORNEY GENERAL.

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CLAIMS OF PHYSICAL ABUSE AT THE TIME OF ARREST HAVE DECREASED SOMEWHAT, AND FOR THE FIRST TIME CASES OF SUBSTANTIATED ABUSE ARE PROMPTLY INVESTIGATED AND PUNITIVE ACTION TAKEN WHEN THE CASE IS BROUGHT TO THE ATTENTION OF THE ATTORNEY GENERAL. THIS REPRESENTS SUBSTANTIAL IMPROVEMENT. THERE HAVE BEEN FEWER ALLEGATIONS OF PHYSICAL ABUSE WITHIN PRISONS, AND IN THE FEDERAL DISTRICT, THERE IS A

GROWING FEELING THAT SUCH ABUSES WILL BE PROMPTLY INVESTIGATED AND PUNISHED BY THE PRISON AUTHORITIES THEMSELVES. THE PROBLEM OF "EXTORTION" IN PRISON, IN THE FORM OF BRIBES PAID TO PRISON PERSONNEL FOR BOTH PRIVILEGES AND NECESSITIES OF LIFE, REMAINS AN INTRACTABLE FEATURE OF PRISON LIFE IN MOST PARTS OF MEXICO. WITHIN ITS CONSULAR DISTRICT, THE EMBASSY ALSO HAS RECEIVED GREATER COOPERATION FROM PRISON AUTHORITIES IN ARRANGING FOR MEDICAL TREATMENT FOR PRISONERS, ALTHOUGH INADEQUATE MEDICAL AND DENTAL CARE CONTINUE TO BE SERIOUS PROBLEMS.

CLAIMS OF ILLEGAL SEIZURE OF PROPERTY ARE DOWN. HOWEVER, THE BUREAUCRATIC RED TAPE REQUIRED TO SECURE THE RETURN OF POSSESSIONS LEGALLY HELD BY THE COURTS REQUIRES A HEAVY EXPENDITURE OF MANHOURS. CLAIMS OF OUTRIGHT EXTORTION BY ATTORNEYS ARE DOWN, BUT THERE APPEARS TO BE LITTLE OR NO IMPROVEMENT IN THE PROBLEM OF OBTAINING HONEST AND COMPETENT LEGAL REPRESENTATION IN MEXICO.

ANOTHER SIGNIFICANT DEVELOPMENT, ALTHOUGH OUTSIDE THE FORMAT OF THIS REPORT, SHOULD BE NOTED. THIS IS THE ATTORNEY GENERAL'S DECISION NOT TO PROSECUTE PERSONS WHO ARE CLEARLY NOT TRAFFICKERS AND WHO ARE APPREHENDED WITH SMALL AMOUNTS OF MARIJUANA OR OTHER PROHIBITED SUBSTANCES. SINCE THIS POLICY WENT INTO EFFECT IN LATE MARCH, SOME 50 AMERICANS ARRESTED WITH 100 GRAMS OR LESS OF MARIJUANA, OR SMALL AMOUNTS OF OTHER DRUGS, HAVE BEEN DEPORTED OR AN AMERICAN CONSULAR OFFICER HAS ASSISTED IN ARRANGING THEIR DEPARTURE FROM MEXICO. THE ATTORNEY GENERAL IS ALSO UNCLASSIFIED

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SURVEYING CASES OF AMERICANS IN THIS SAME CATEGORY WHOSE TRIAL IS ALREADY IN PROGRESS, OR EVENTHSE WHO HAVE RECEIVED CONVICTIONS, WITH A VIEW TO ARRANGING THEIR RELEASE. PARTLY AS A RESULT OF THE NEW POLICY, THE TOTAL NUMBER OF AMERICAN PRISONERS IN MEXICO HAS DECLINED FROM 621 AS OF JANUARY 31, 1977 TO 579 AT PRESENT. END SUMMARY.

1. IN ACCORDANCE WITH REF (A) THE FOLLOWING COVERS PERSONS ARRESTED FROM JANUARY 16, 1977 TO MAY 15, 1977. EMBASSY HAS LISTED BOTH COUNTRYWIDE STATISTICS AND DATA OF INDIVIDUAL POSTS. NARRATIVE PORTIONS OF REF (B) REMAIN VALID EXCEPT WHERE AMENDED BY SPECIFIC COMMENTS BELOW.

A. TOTAL NUMBER ARRESTED 550

MEXICO CITY	39
CIUDAD JUAREZ	43
GUADALAJARA	27
HERMOSILLO	37

MATAMOROS	9
MAZATLAN	23
MERIDA	12
MONTERREY	8
NUEVO LAREDO	199
TIJUANA	153

B. NOTIFICATION AND ACCESS

TOTAL ADEQUATE 177 TOTAL INADEQUATE 50

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ADEQUATE:		INADEQUATE:	
MEXICO CITY	30	MEXICO CITY	7
CIUDAD JUAREZ	43	CIUDAD JUAREZ	0
GUADALAJARA	17	GUADALAJARA	10
HERMOSILLO	36	HERMOSILLO	1
MATAMOROS	9	MATAMOROS	0
MAZATLAN	5	MAZATLAN	4
MERIDA	10	MERIDA	2
MONTERREY	7	MONTERREY	1
NUEVO LAREDO	0	NUEVO LAREDO	8
TIJUANA	20	TIJUANA	17

THE DISCREPANCY IN THE SUM OF FIGURES FOR PARTS A AND B
IS CAUSED BY THE FACT THAT THREE CONSTITUENT POSTS --
NUEVO LAREDO, MAZATLAN AND TIJUANA -- DID NOT INCLUDE IN
THEIR CALCULATIONS OF PARTS B TO I CASES INVOLVING MINOR
OFFENSES, THAT IS, THOSE IN WHICH THE ARRESTEES WERE
RELEASED AFTER ONLY ONE OR TWO DAYS IN JAIL. IN NUEVO
LAREDO, OF THE 199 ARRESTS, 191 WERE MADE FOR SUCH OFFENSES
AS DISORDERLY CONDUCT, NEARLY ALL BY LOCAL RATHER THAN

FEDERAL AUTHORITIES. IN MAZATLAN THERE WERE 14 SUCH CASES, AND IN TIJUANA, 117. NOTIFICATION AND ACCESS CONTINUES TO IMPROVE. IN THE FEDERAL DISTRICT FOR EXAMPLE, THE ATTORNEY GENERAL'S OFFICE HAS TAKEN THE INITIATIVE IN SOME CASES OF NOTIFYING THE EMBASSY WITHIN 24 HOURS OF THE INITIAL

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DETENTION. LIKEWISE, THE NEW FEDERAL DISTRICT ATTORNEY IN MAZATLAN HAS INDICATED HE WILL COOPERATE RE NOTIFICATION AND ACCESS IN FUTURE ARREST CASES, WHILE AMCON NUEVO LAREDO IS TAKING VIGOROUS STEPS TO IMPROVE NOTIFICATION AND ACCESS IN ARREST CASES. STEPS INCLUDE A LETTER OF PROTEST TO ONE FEDERAL DISTRICT ATTORNEY INVOLVED AND MEETINGS WITH NEW REGIONAL DIRECTOR OF FEDERAL DISTRICT ATTORNEYS. AS AN INDICATION OF THE GOM'S COMMITMENT TO OVERCOME THE PROBLEM OF TARDY NOTIFICATION, THE ATTORNEY GENERAL OF MEXICO ON MARCH 23 INSTRUCTED DISTRICT ATTORNEYS TO NOTIFY "WITHOUT DELAY" THE CONSULAR OFFICIALS OF FOREIGN COUNTRIES WHEN ONE OF THEIR NATIONALS IS ARRESTED IN THIS COUNTRY. THE ATTORNEY GENERAL IN HIS INSTRUCTION, CITED THE VIENNA CONVENTION OF 1963 AS THE BASIS FOR THIS ORDER.

C. VISITATION

FIGURES AND COMMENTS ON VISITATION REMAIN SUBSTANTIALLY UNCHANGED FOR MEXICO CITY AND CONSTITUENT POSTS SINCE SUBMISSION OF REF (B).

D. CLAIMS OF INNOCENCE

HERMOSILLO	4	-	3	1
MATAMOROS	0	-	-	-
MAZATLAN	2	1	1	-
MERIDA	2	-	-	2
MONTERREY	1	-	-	1
NUEVO LAREDO	3	-	1	2
TIJUANA	12	4	-	8

IT IS DIFFICULT TO SUBSTANTIATE CASES OF ABUSE AT TIME OF ARREST. IN MANY CASES EITHER COERCIVE METHODS ALLEGEDLY USED DO NOT LEAVE MARKS (E.G. SODA WATER FORCED UP NOSTRILS) OR MARKS OF ALLEGED BEATING COULD HAVE DISAPPEARED BEFORE CONSULAR OFFICER SEES PRISONER. CASES SUBSTANTIATED BY CONSTITUENT POSTS OR THE EMBASSY ARE REPORTED TO THE ATTORNEY GENERAL'S OFFICE IF THE PRISONER

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CONCURS. THE ATTORNEY GENERAL HAS PROMISED A FULL

INVESTIGATION IN EACH INSTANCE. EMBASSY BELIEVES THIS IS MORE EFFECTIVE IN BRINGING ABUSES TO GOM'S ATTENTION THAN THE FORMER METHOD OF FILING DIPLOMATIC NOTES WITH SECRETARIAT FOR FOREIGN RELATIONS WHICH WENT UNANSWERED.

F. ALLEGED ILLEGAL SEIZURE AND RETENTION OF PRISONERS' PROPERTY

	SUB	UNSUB-	NO	
ALLEGED	STANTIATED	STANTIATED	CONCLUSION	
TOTAL	13	2	2	9
MEXICO CITY	1	1	-	-
CD. JUAREZ	0	-	-	-
GUADALAJARA	6	-	-	6
HERMOSILLO	2	-	2	-
MATAMOROS	0	-	-	-
MAZATLAN	1	1	-	-
MERIDA	0	-	-	-
MONTERREY	0	-	-	-
NUEVO LAREDO	0	-	-	-
TIJUANA	3	-	-	3

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NEW ARRESTEES FREQUENTLY FIND THAT SOME OF THEIR PERSONAL PROPERTY AND MONEY HAS BEEN SEIZED BY MEXICAN AUTHORITIES TO BE USED AS EVIDENCE BY THE PROSECUTING ATTORNEY. SUCH

PROPERTIES ARE TURNED OVER TO THE JUDGE IN CHARGE OF THE ARRESTEE'S CASE. THE EMBASSY NOTES ONLY TWO SUBSTANTIATED CASES IN THE REPORTING PERIOD IN WHICH PERSONAL EFFECTS OF ARRESTEES WERE SEIZED ILLEGALLY. ONE OCCURRED IN MAZATLAN WHERE THE CONSUL IS ACTIVELY PURSUING THE RECOVERY OF THE STOLEN GOODS. A SECOND CASE OCCURRED IN THE MEXICO CITY DISTRICT, AND AFTER THE INTERVENTION OF THE ATTORNEY GENERAL OF MEXICO AT THE REQUEST OF THE EMBASSY, A PARTIAL RESTITUTION WAS MADE OF GOODS TAKEN FROM A NEWLY ARRESTED AMERICAN. SIGNIFICANTLY, ALL MONEY SEIZED DURING THIS ARREST WAS RETURNED.

G. EXTORTION BY ATTORNEYS.

	SUB- ALLEGED	UNSUB- STANTIATED	CONCLUSION STANTIATED	REACHED
TOTAL	5	2	-	3
MEXICO CITY	0	-	-	-
CIUDAD JUAREZ	0	-	-	-
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GUADALAJARA	1	1	-	-
HERMOSILLO	0	-	-	-
MATAMOROS	0	-	-	-
MAZATLAN	0	-	-	-
MERIDA	0	-	-	-
MONTERREY	0	-	-	-
NUEVO LAREDO	1	1	-	-
TIJUANA	3	-	-	3

ALTHOUGH THE BLATANT EXTORTION OF THE RECENT PAST SEEMS TO BE DECLINING, ONE OF THE MOST SERIOUS PROBLEMS FACED BY AMCIT PRISONERS CONTINUES TO BE INADEQUATE LEGAL REPRESENTATION. THIS IS PARTICULARLY SO WITH RESPECT TO THE PUBLIC DEFENDER WHO MAY NOT BE SEEN BY HIS "CLIENT" BUT ALSO APPLIES TO A LESSER DEGREE TO THE HIGH PRICED PRIVATELY RETAINED LAWYER. THE EMBASSY HAS RAISED THE PROBLEM OF THE PUBLIC DEFENDERS WITH THE ATTORNEY GENERAL AND WILL PURSUE IT. A CAREFUL EXPANSION AND REVISION OF THE ATTORNEY GENERAL'S LIST (NEAR COMPLETION) WILL PROVIDE AN ACCEPTABLE ALTERNATIVE FOR PRISONERS WITH MONEY. HOWEVER, TO REITERATE THE STATEMENT MADE IN REF (B) ON THIS SUBJECT, THE SINGLE MOST SERIOUS PROBLEM FOR AN AMCIT ARRESTED IN MEXICO IS HIS INABILITY TO FIND HONEST, COMPETENT AND EFFECTIVE LEGAL REPRESENTATION.

H. ABUSE IN PRISON

	SUB- ALLEGED	UNSUB- STANTIATED	CONCLUSION STANTIATED	REACHED
TOTAL	13	3	-	4
MEXICO CITY	3	2	-	1
CD. JUAREZ	0	-	-	-
GUADALAJARA	6	2	-	4
HERMOSILLO	0	-	-	-
MATAMOROS	0	-	-	-
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MAZATLAN	4	1	-	3
MERIDA	0	-	-	-
MONTERREY	0	-	-	-
NUEVO LAREDO	0	-	-	-
TIJUANA	0	-	-	-

IN THE REPORTING PERIOD, THREE CASES OF BEATINGS WERE REPORTED IN THE MEXICO CITY DISTRICT. ONE INVOLVED ALLEGATIONS AGAINST OTHER PRISONERS, AND WAS BROUGHT TO THE ATTENTION OF THE PRISON DIRECTOR WHERE THE INCIDENT TOOK PLACE. ANOTHER PRISONER WAS SEVERELY BEATEN BY PRISON GUARDS WHILE BEING TRANSFERRED FROM ONE PRISON TO ANOTHER, ALLEGEDLY IN RETALIATION FOR REFUSING TO SUBMIT TO EXTORTION. THE PRISON DIRECTOR HIMSELF ORDERED INVESTIGATION OF THE INCIDENT WHICH RESULTED IN THE FIRING OF THE GUARD AND THEIR ARREST. FINALLY, ANOTHER PRISONER IN THE DISTRICT SUFFERED UNNECESSARY PAIN AND ANXIETY WHEN AN APPENDECTOMY WAS BADLY PERFORMED AND THE WOMAN HAD TO BE TRANSFERRED FROM THE OPERATING TABLE AT PRISON TO ANOTHER HOSPITAL WITHOUT ADEQUATE ANESTHESIA. THE EMBASSY IS SEEKING AN EXPLANATION FROM THE FEDERAL DISTRICT PRISON ADMINISTRATION ON THE MANNER IN WHICH THIS OPERATION WAS CARRIED OUT.

THE FOUR CASES REPORTED BY MAZATLAN DEAL WITH THE EXTORTION OF MONEY FROM AMERICAN INMATES BY A PRISON "COMMISSION" COMPOSED OF OTHER INMATES. IN ONE CASE, AN AMERICAN WAS TRANSFERRED TO SOLITARY

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ONE CASE, AN AMERICAN WAS TRANSFERRED TO SOLITARY CONFINEMENT THROUGH THE "COMMISSION'S" PRESSURE. CONOFF PROTESTED INCIDENT TO PRISON DIRECTOR WHO ORDERED PROBLEM CORRECTED IMMEDIATELY. IN OTHER THREE CASES, PRISONERS DID NOT WISH CONOFF TO INTERVENE FOR FEAR OF REPRISALS. IN GUADALAJARA SIX PRISONERS ALLEGED THAT THEY WERE BEATEN FOLLOWING RECAPTURE AFTER AN ATTEMPTED JAIL BREAK. AMCON LATER SUBSTANTIATED THAT TWO OF THE SIX HAD BEEN ABUSED AFTER BEING RECAPTURED, AND PROTESTED THE ABUSE TO PRISON AUTHORITIES.

I. DETENTION BEYOND 1 YEAR SENTENCING.

	TOTAL TACTICS		REASONS
TOTAL	54	15	37
MEXICO CITY	10	-	10
CD. JUAREZ	1	-	1
GUADALAJARA	3	3	-
HERMOSILLO	10	7	3
MATAMOROS	3	1	2
MAZATLAN	3	1	2
MERIDA	0	-	-
MONTERREY	4	-	4
NUEVO LAREDO	4	2	2
TIJUANA	16	1	13

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IN TWO CASES IN TIJUANA THE REASON FOR TRIAL DELAY -- THE FACT THAT THE PRISONERS HAD CHANGED ATTORNEYS THREE TIMES - WAS JUDGED ACCEPTABLE BY THE CONSULATE. OF THE TEN CASES OF PROLONGED TRIAL DELAYS IN MEXICO CITY, ONLY ONE PRISONER REQUESTED INTERVENTION BY THE EMBASSY. THE JUDGE TO WHOM THE EMBASSY WROTE, POINTING OUT THE DELAY, PROMISED TO CONCLUDE THE CASE RAPIDLY WHEN THE CHARGES WERE DROPPED BY THE ATTORNEY GENERAL'S OFFICE. OTHER CONSTITUENT POSTS REPORT THAT BACKLOGS IN LOCAL COURTS CONTINUE TO BE THE

SINGLE MOST IMPORTANT FACTOR IN TRIAL DELAYS, APART FROM
DELIBERATE DEFENSE TACTICS OF THE PRISONERS. THE FACT
THAT ALL PRISONERS INVOLVED IN A CRIME MUST BE TRIED TOGETHER
HAS ALSO DELAYED THE TRIALS OF SOME AMERICANS WHO WERE
ARRESTED IN GROUPS. THOMPSON

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